



STATE OF MAINE
PUBLIC UTILITIES COMMISSION

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April 29, 2013

Honorable John J. Cleveland, Senate Chair
Honorable Barry J. Hobbins, House Chair
Energy, Utilities and Technology Committee
115 State House Station
Augusta, Maine 04333

**Re: LD 1403, Resolve, To Require the Public Utilities Commission To
Amend Its Rules Regarding Net Energy Billing**

Dear Senator Cleveland and Representative Hobbins:

The Maine Public Utilities Commission (Commission) testifies neither for nor against LD 1403, Resolve, To Require the Public Utilities Commission To Amend Its Rules Regarding Net Energy Billing. This bill would substantially alter and expand eligibility for Maine's net energy billing (NEB) program. Specifically, the bill would require the Commission to amend its NEB rules (Chapter 313) to: 1) increase the capacity limit of eligible facilities from 660 kW to 1 MW; 2) remove the requirement that the net energy billing customers have an ownership or a legal interest in the eligible generating facility and specify that third party owners of facilities are not competitive electricity providers; and 3) specify that the sale or delivery of kWhs to NEB customers is exempt from sales and use tax.¹

Net Energy Billing Overview

In considering this bill, it is helpful to have some background on NEB and how it has evolved over many years into Maine's current program.

Description of Net Energy Billing

Net energy billing is a metering and billing practice that allows a customer that has his own generating facility (e.g., solar panel or wind turbine) to be billed on the basis of "net energy" over a billing period. Net energy is the difference between the kWhs a customer consumes and the kWhs produced by the customer's generating facility over the period. Thus,

¹ This bill is similar in several respects to LD 1146, An Act To Encourage the Use of Renewable Energy.

under NEB, any excess generation from a customer's own generating facility may be used to offset the customer electricity usage at times when the customer's facility is not generating enough to meet the customer's electricity needs.

Origin of Net Energy Billing in Maine

Net energy billing was not initially required or explicitly authorized by statute and is primarily a function of Commission rule. The Commission initially adopted a NEB rule in the early 1980s as part of the rules that implemented the federal Public Utility Regulatory Policies Act or PURPA and Maine's Small Power Production and Cogeneration Act. These statutory provisions were intended to promote the development of non-utility renewable and cogeneration electric generation facilities referred to as qualifying facilities or QFs. The Commission initially adopted NEB rules as a means to reduce costs for very small generating facilities on a customer's premises by avoiding the costs of a second meter and, instead, allowing the meter to run in both directions. Under these rules, a customer's usage would be offset by generation within a billing period and any excess generation at the end of the month would be sold to the utility at its "avoided costs." Net energy billing was limited to renewable facilities with an installed capacity of 100 kW or less.

Industry Restructuring

In the late 1990s, the Legislature restructured Maine's electricity industry, requiring electric utilities to divest their generation assets and prohibited them from purchasing or selling generation related products and services. These services would instead be provided through a competitive market. As a result, the Commission amended the NEB rules to adopt an "annualized" NEB approach in which, rather than selling excess generation to utilities, customers that generate more than they use in a given month are provided "credits" that could then be used to offset usage over the following 12 months. The Commission maintained the 100 kW capacity limit for eligible facilities. Subsequently, the Commission interpreted the rule to allow net billing against generating facilities that were not actually located on the customer's premises as long as the facility was "located on or in the vicinity of the customer's premises (referred to as the "proximity requirement").

Current Net Energy Billing Rule (Chapter 313)

The Commission's current net energy billing rules are a result of a major substantive rulemaking process in which the Legislature authorized changes in the rules that expanded NEB in two significant ways. First, the eligible facility limit was increased from 100 kW to 660 kW. Second, "shared ownership" NEB was authorized to allow several customers to net bill against the output of a jointly-owned generating facility. Consequently, the proximity requirement was removed so that the eligible generating facility could be located anywhere in a utility's service territory. However, each NEB arrangement is limited to a total of ten meters. The rules specify that individual customers or shared ownership customers may net bill against the output of eligible renewable facilities that they "own or for which they have legal rights," and whose output is used primarily to offset part, or all, of the customers' own electricity requirements.

Policy Considerations

Net energy billing promotes the installation and use of small renewable generation facilities within Maine and is, thus, consistent with State policies in favor of the promotion

and development renewable, diverse and indigenous electricity supply resources. However, net energy billing also involves a transfer payment (in the form of lost revenue) from the utility's general body of ratepayers. This transfer payment occurs because the value provided to net energy billing customers, in essence, is equivalent to the full retail cost of electricity (retail power, transmission, distribution and stranded costs) which is approximately 13 cents/kWh for a wholesale energy-only supply product that has an approximate value of 5 cents/kWh. Stated another way, net energy billing customers do not pay the full cost of their retail supply, e.g., standard offer service, nor for the use of the T&D system. This transfer of funds among ratepayers to promote the benefits of small renewable generation makes the basic design and extent of eligibility for net energy billing a fundamental question of energy policy to be determined by the Legislature.²

LD 1403

LD 1403 would make several significant changes to the NEB program. These are discussed below.

Eligible Facility Capacity Limit

LD 1403 would increase the capacity limit of eligible facilities from 660 kW to 1 MW. NEB is a common incentive mechanism among the states and the eligibility limit varies greatly.³ The other New England states have a generating facility qualification limit of 1 MW or greater as part of their NEB programs. Generally, other states outside New England have qualification limits of 100 kW or less. An increase in the eligibility limit would result in some incremental revenue losses that would ultimately be paid for by ratepayers. The cost of NEB has been relatively modest and the precise amount of incremental lost revenues resulting from increasing the eligibility limit would be difficult to predict.⁴

Ownership or Legal Interest Requirement

LD 1403 would remove the requirement that the net energy billing customers have an ownership or a legal interest in the eligible generating facility. The bill also specifies that a third party owner of an eligible facility can provide electricity to NEB customers without being a competitive electricity provider. As discussed above, NEB has been a means to promote the installation of small renewable facilities to serve customers own electricity needs. The removal of an ownership or legal interest requirement would fundamentally change the nature of NEB and substantially expand the eligibility of the program, and the resulting ratepayer costs, beyond facilities developed to serve customers' own needs to include what are now considered retail sale arrangements.

² By promoting the installation of distributed generation, NEB may have some ratepayer cost reduction benefit by increasing generation supply and deferring the need for distribution upgrades. Such cost reductions are likely to be small and very dependent on the particular location of the generating facility.

³ The Commission attached a map illustrating this point on prior NEB bill testimony (e.g., LD 1146).

⁴ CMP reported an annual revenue loss relating to NEB of approximately \$425,000 compared to annual revenue in 2012 of approximately \$400 million.

Tax Exemption

The Commission has no comment on this provision of the bill.

The Commission looks forward to working with the Committee on LD 1403 and I would be happy to respond to any questions the Committee has at this time. The Commission will also be available at the work session to assist the Committee in its consideration of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Paulina McCarter Collins". The signature is fluid and cursive, with the first name "Paulina" being the most prominent.

Paulina McCarter Collins, Esq.
Legislative Liaison

cc: Energy, Utilities and Technology Committee Members
Jean Guzzetti, Legislative Analyst